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ABSTRACT

This article discusses inequalities in the distribution of educational resources, with emphasis placed on inequalities within school districts. In the first section, racially-based inequalities within school districts are traced from the post Civil War period to the 1960s. Examples of unequal expenditures for black students given in this section include disparities in the rural South and in Newark, Chicago, and the District of Columbia. The second section is a review of social science research investigating the degree to which educational resource allocations favor upper income children. Studies examining the unequal distribution of adequate school buildings, experienced and well paid staff, and local, State and Federal funds within districts and within individual schools are discussed. The third section traces the changing legal stance on equality of educational resource allocation. Included are discussions of the post Civil War period of mandated equality in some States, the rulings by courts at all levels approving intradistrict inequalities at the turn of the century, the Supreme Court's unrealistic assertion in the 1954 Brown vs. Board of Education decision that inequalities in expenditures were not an issue because inequalities did not exist in the Brown States, and the Supreme Court's declaration of the need for the elimination of intradistrict educational inequalities linked to illegal segregation in the 1977, Milliken decision. A list of court cases cited in the article is appended. (BE)

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RESEARCH REVIEW OF EQUAL EDUCATION

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Intra-District Inequalities, I

Meyer Weinberg

How well a child is educated depends, in part, on how many educational resources the child commands. These include teachers, supplies, books, equipment, buildings — in fact, anything useful in the instruction of students. While some resources are "free" to the student (such as his family's encouragement) most others "cost" the community or that part of it which pays taxes.

How equitably are those resources distributed among the children who need them? To answer this question, we must examine actual patterns of resource use. Such research, however, is rare. The vast majority of research studies in educational finance are several removes from classroom realities. So long as this remains true, the subject of equity of resources will continue to be uncharted territory.

The 40,000,000 or so public school students in the United States are served by a total of some $80 billion in current expenditures. This stream of resources is fed by several tributaries. The federal government contributes about eight percent, state governments about 40 percent, and localities 52 percent. Except for a few specific programs, federal authorities do not even attempt to determine whether most school children are equitably served. State governments have certain statutory obligations to check on local compliance with legal requirements, but much of this supervision is perfunctory. Inside the individual school districts almost nothing is known of the precise extent of equity of resources between schools. Nor does the federal or state government seek such information.

During the past decade or so, the topic of educational finance has come to mean, for many, reform of the property tax system. The goal of this reform was proclaimed by its proponents to be a more just distribution of resources between school districts. Since no interest was expressed in school-by-school equities, statewide tax reform has concerned itself with changes in the taxing system rather than in the classrooms or in the individual school.

Unless tax reformers concern themselves with the individual school, they will lack any means of discerning the educational impact of the tax reforms. As a result, it will be merely tax rates that are reformed. While a more uniform system of tax rates between school districts in a state is laudable, it has no necessary consequence for educational equity. If, for example, a school district receives additional money as a result of tax reform, there is no guarantee the funds will be any more equitably distributed within the district. This is true for every known inter-district tax reform approach.

Children, after all, attend single schools, not districts. If a change in district financing occurs, it may or may not affect educational realities at the local level. It could, for example, more adequately fund a basically unjust system of allocating resources among schools in a district. Or, it may simply maintain the system's injustices at a higher dollar level. Or, it could provide an extra fund for compensatory education of the poorest children in the system. What is dismaying in the educational finance literature is the failure by virtually all researchers to consider the interrelation of inter-district and intra-district finances.

Children attend single schools. Researchers on educational finance, however, prefer to study whole school districts or entire states. Is this sound? Essentially, to ignore individual schools is to assume that no significant differences exist among schools in a single school district. In a homogeneous community, this is conceivably true. But no urban community is homogeneous. Differences of income, wealth, power, status, and race overwhelmingly characterize American cities. The schools are not immune to these forces. A walk through any city shows as much. Aside, however, from a common architectural model, the schools embody very different educational realities.

Despite a surfeit of discussion of equality in the educational literature, few researchers have actually studied the subject at the local level where schooling inequality is enacted. And in the field of educational finance, absorption with the district level has all but swamped the local level. Reform of school financing has become equated with educational equality. Through action of state courts and legislatures, fiscal equity is to be transformed into classroom equality. Yet, no evidence is available to test this expectation. Do children attending schools in districts and states that have experienced fiscal reform experience greater educational equality as a result of the changes? An early study by Rand of reform experience in five states found that "the reform movement's victories have proved somewhat hollow."[1] Instead of greater fiscal equity among

1. Stephen J. Carroll with the assistance of Millicent Cox and William Lisowski, *The Search for Equity in School Finance: Results from Five States* (Santa Monica, California: Rand, March, 1979), p. 173.

districts, the study reported, "reform has favored districts serving higher-income populations relative to districts serving lower-income populations."[2] Rand, however, did not investigate the classroom consequences of fiscal reform. Very likely there were none. Originally, fiscal reform was declared to be a way of delivering greater resources to children who were especially disadvantaged. Neither Rand nor the field in general has inquired about this outcome.

Exclusive concern with district and state dimensions mirrors managerial concerns more than anything else. The central school administrator searches for ways to increase the flow of funds into his or her district. At the same time, details of the fate of the funds in single schools within the district are guarded and unavailable to the public or researchers. The latter, for their part, adjust research perspectives to actual opportunities to gather data. Consequently, certain subjects become unavailable and even unsought for purposes of research. Where large enrollments of poor and minority children are involved, public records of actual expenditures on a school-by-school basis are especially rare.

Extensive discussion with many active minority citizens over the years reveals that they tend overwhelmingly to stress the inadequate resources at schools attended by their children. Endless examples are cited. In one city after another the same experience has been reported by many reliable observers of local school scenes. Less frequently, however, do examples go beyond inadequacy to inequality. In large part, this is a result of segregation. Relatively few minority persons have the personal experience of attending non-segregated schools, which, of course, themselves occupy a wide range of class-related resource adequacy. Since passage of the Civil Rights Act of 1964, legal liability of school districts for these school-by-school inequalities has become a major matter of concern by school authorities. Undoubtedly, this factor played a prominent role in the almost unprecedented refusal of Chicago and other large cities to participate in the congressionally-mandated Equal Educational Opportunities Survey (the "Coleman Report"). Federal authorities permitted this defiance to take effect, even though individual districts were not identified in the study.

The remainder of this issue of the *Research Review of Equal Education* is devoted to an analysis of (1) the history of intra-district inequalities that are race-related, (2) the research literature of intra-district inequalities, and (3) the emerging law of these inequalities. The next issue of the *Research Review* will examine unpublished and published contemporary materials on intra-district inequalities in New York City, Los Angeles, and other cities.

2. *Ibid.*, p. 174.

1. Historical Aspects

In the South, the abolition of slavery created the foundation of state-supported public schooling of both black and white children. During a brief interim that followed, blacks attained a measure of independent political power. By 1880, one-third of their children attended public schools in the South. Only for a comparative moment, however, did the children enjoy equal per-pupil state appropriations. This occurred in Deep South states such as Alabama and South Carolina. With the overthrow of black political power in the late 1870's and 1880's, blatant, state-approved inequality of expenditures became the norm throughout the region. The principal mechanism for this planned deprivation was unequal apportionment by county school authorities of the state appropriations which, formally, were equal on a per-pupil basis. Within each county, a dual system arose, enforced by physical threats and unequal political power. Intra-district inequality became part of the regime of racism.

During the three decades after 1880, black public schooling in the South barely held its own. Two developments were especially menacing: (1) white-black expenditures within districts became increasingly disparate and (2) the very existence of public schools for black children was questioned by southern spokesmen. The first factor will be discussed in detail under "Legal Aspects". As for the latter, the threat was all too real. Spokespersons for black schooling stressed, not the principle of the common school — which was unacceptable to most whites — but evidence that the black community more or less paid the costs of black schools.

Between 1891 and 1909, arguments were presented by Annie Tolman Smith, George W. Cable, W. E. B. DuBois, and Charles L. Coon.

Smith, writing in 1891, pointed out that black schools in the rural South were almost wholly dependent on state appropriations while in the larger, more progressive cities less unequal expenditures were frequently distributed. In Delaware, she pointed out, state appropriations for white children were slightly more than twice those for black children.[3] Cable stressed the self-support of black schools[4]:

> In the year 1889-90 the colored schools of Georgia did not really cost the white people of the State, as a whole, a single cent, either in poll tax, tax on property, or any other form of public revenue.

3. Annie Tolman Smith, "The Support of Colored Public Schools," *Independent*, 43 (April 2, 1891), p. 7.
4. George W. Cable, "Does the Negro Pay for His Education?" *Forum*, 13 (July 1892), p. 645.

According to Cable, black schooling suffered most because of the southern practice of deriving most financial support from local taxation rather than from state aid. He pointed to Texas as an example: "Texas has a school-district optional system so framed as to be simply a landholders' option, and as late as 1887-88 only three hundred of the state's three thousand school districts imposed local school taxes."[5] Within each of these few districts, black schools fared poorly. Both the white and black poor, Cable emphasized, were more heavily taxed for schools than counterparts elsewhere in the country.

In 1900, DuBois studied black schools in 17 southern states and concluded that 79.4 percent of the cost was covered by black taxes.[6] In seven of the states, black payments covered all or more of the costs. All but two of these states were in the Deep South. Harlan, a historian writing nearly 60 years later, acknowledged the general accuracy of DuBois' calculations, especially if black payments of indirect taxes were included.[7]

Coon, school superintendent of the Wilson, North Carolina public schools and a prolific writer of books on education, asked in 1909: "Is the Negro public school in the South a burden on the white taxpayer, and if so, to what extent?"[8] While slightly over 40 percent of schoolchildren in eleven southern states were black, they received only 15 percent of the school funds, all channeled through intra-district sources. About three-quarters of all school funds went to teachers, but white teachers received 62.4 percent and only 12 percent to black teachers.[9] Using current figures for three states, Coon found the following:[10]

State	Expenditures on black schools	Black share of taxes	Black share of costs
Virginia	$ 489,228	$ 507,305	103.7
North Carolina	402,658	429,197	106.6
Georgia	506,170	647,853	128.0
TOTAL	$1,398,056	$1,584,355	113.3

"Southern" patterns could also be found in the North.

In Newark, New Jersey, blacks rarely exceeded three percent of the city throughout the nineteenth century. Yet, school segregation

5. *Ibid.*, p. 648.
6. W.E.B. DuBois, *The Negro Common School* (Atlanta: Atlanta University Press, 1901), p.87, reprinted in Meyer Weinberg, *A Chance to Learn*, (N.Y.: Cambridge University Press, 1977), p. 50.
7. Louis R. Harlan, Separate and Unequal: *Public School Campaigns and Racism in the Southern Seaboard States 1901-1915* (Chapel Hill, N.C.: University of North Carolina Press, 1958), p. 19.
8. Charles L. Coon, *Public Taxation and Negro Schools* (Cheyney, Pa.: Committee of Twelve for the Advancement of the Interests of the Negro Race, 1909), p. 3. (A paper read before the Twelfth Annual Conference for Education in the South held in Atlanta, Georgia, April 14-16, 1909).
9. *Ibid.*, pp. 3-4.
10. *Ibid.*, pp. 6-7, 9.

was enforced by law. Until 1864, temporary "colored" schools were opened in buildings abandoned by whites. They were tiny and expensive to operate. In 1856, for example, per pupil expenditure on blacks was $10.82 and $3.75 on whites. The disparity, notes Anderson, "was a reflection of the economic unfeasibility of maintaining a separate school for relatively few pupils."[11] In 1864, Colored School No. 1 was organized. Only black teachers were permitted to work there. Although paid less than white primary school teachers at first, in 1883 salaries were equalized. Based on an examination of payroll records for 45 years, Anderson found that black teachers collected larger net salary payments than whites. Two reasons explained this: blacks had greater tenure and they were absent less.

Black residents paid school taxes in excess of the cost of operating black schools. Around 1859, they were paying from $1,200 to $1,500 annually while school expenses ran around $500.[12]

In 1872, black students were given the alternative of attending district — i.e., white — schools. By 1890, nearly 60 percent had chosen such schools. When transferred from the black school, they were placed in the same grade they would have regularly attended. During the years 1874-1894, when graduates of the black school competed with graduates from white schools for entrance into the selective high school, "black students not only held their own . . . but often exceeded their achievement while in the Colored School."[13] Anderson observes that "the curricular offerings of the Colored School closely paralleled those of the district schools, utilizing the same textbooks and supplies as did the district primary and grammar schools."[14] From 1872, when blacks were first admitted to district schools, until 1909, when the black school was abolished, black students attended both kinds of institutions. Since, however, it was not possible for Anderson to trace the records of black students in district schools, he could not compare the achievement of blacks in both types of schools.

The comparative benevolence of black schooling in Newark is to be contrasted with that in Chicago.

Homel studied black education in that city, during the period 1910-1941. During the years 1865-1895, he describes the social situation of black Chicago as tranquil with considerable integration of housing and schools.[15] By century's end, however, deterioration set in as economic competition with immigrants resulted in a decline of

11. John Robert Anderson, *Negro Education in the Public Schools of Newark, New Jersey During the Nineteenth Century* (Doctoral dissertation, Rutgers University, 1972), p. 147.
12. *Ibid.*, p. 286.
13. *Ibid.*, pp. 238-239.
14. *Ibid.*, p. 210.
15. Michael W. Homel, *Negroes in the Chicago Public Schools, 1910-1941* (Doctoral dissertation, University of Chicago, 1972), p.9.

black status. Between 1910 and 1920, notes Homel, "white Chicagoans regarded schools with as little as 10-30 percent black enrollment as Negro institutions."[16] While Chicago's black schools impressed recent southern black migrants, after a time they were discouraged upon comparing their schools with those of whites in the city.

Homel traced per pupil instructional expenditures on a racial basis over a 20-year period. Here are his findings:[17]

	Whites	Blacks	Black % of White
1920	$43.32	$41.92	96.8
1930	71.96	67.61	94.0
1940	71.28	61.88	86.8

Homel refers to a sample study by George McCrary made in 1937-1938 which showed per pupil appropriations for white schools at $86.07 and $74.02 for black schools or a 14 percent lag.[18] This closely paralleled Homel's own finding. Between 1940 and 1950, he also reported, appropriations for textbooks and supplies, which had been comparable during the earlier year, had diminished to the disadvantage of blacks at period's end.

During the 1930s, similar resource disadvantages developed. By 1939-1940, of the 14 schools that were on double-shift or split session, 13 were black.[19] When, in 1935, DuSable High School was completed, it opened with 3,800 rather than the planned-for 2,400 students. A newspaper story described the situation: "Classes are now held in assembly hall, store rooms, lunch rooms, corridors, special gymnasium, and ante rooms to the faculty lavatories."[20] School buildings housing black students in Chicago were older than white ones. Lower academic achievement and lesser teacher expectations of achievement were frequently reported in black schools. In summary, Homel writes:[21]

> Deterioration outweighed advance for blacks in Chicago public schools between 1910 and 1941. . . . Separating black and white students . . . stigmatized the former as inferior and permitted the disparity in facilities evident by the closing decade of the period. Differences in per capita spending, pupil-teacher ratios, and location of double-shift sessions verified this trend.

Black and white differentials in 1961, 1963, and 1966 were studied by Baron. In the first year median appropriations for white

16. *Ibid.*, p. 46.
17. *Ibid.*, p. 104.
18. *Ibid.*, p.103.
19. *Ibid.*, pp. 110-111.
20. *Ibid.*, p. 113
21. *Ibid.*, p. 262.

schools were 29 percent greater for white than for black schools.[22] The number of children on double-shift had risen to 25,000; 90 percent were black.[23] Two years later, in the midst of civil rights demonstrations, the school board appropriated an additional $50 per pupil in about one-hundred schools located in poor areas. The overall expenditure gap fell from $77 per student in 1961 to $48 in 1963. By 1966, Baron found, the situation had worsened.[24] No special effort was made to narrow the gap. Indeed, had it not been for federal compensatory education funds received that year, Chicago's total per student gap, Baron writes, would have deteriorated seriously.[24]

In 1949, an examination of the District of Columbia school district was conducted by George Strayer and his staff.[25] Cooke has summarized the study's findings:[26]

> (1) Negro school buildings were more crowded, older, larger, and less adequate; (2) more Negro children occupied a classroom, generally speaking, than did white children; (3) the Negro teacher at every academic level . . . carried a heavier burden than the white teacher; (4) Negro high school children traveled longer distances to their schools than did white children; (5) the recommended school-housing expenditures [for needed facilities] for Negroes was $20 million compared to $5 million for white children.

A number of other, more specific, findings added detail to the general picture of inequality.

Deliberate short-changing of black children was a nationwide pattern before and after the Civil War. Blacks more or less paid for their own schooling. Where the political structure permitted, state appropriations for black children were systematically raided for the benefit of white schools in the same district. In northern cities such as Newark, when blacks made up a tiny part of the city's enrollment, segregation was enforced even if it required larger per-pupil expenditures. In Chicago, between 1910 and 1940, the gap between black and white schools grew as the numbers of blacks in the city increased. This pattern persisted into the 1960's. Legally-segregated systems, as in Washington, D.C. before 1954, were prodigal in their cultivation of intra-district inequalities.

22. Harold Baron, "Race and Status in School Spending: Chicago, 1961-1966," *Journal of Human Resources*, 6 (1971) 3-24. Cf. Jesse Burkhead with Thomas G. Fox and John W. Holland, *Input and Output in Large-City High Schools* (Syracuse, N.Y.: Syracuse University Press, 1967).
23. *Ibid.*, p. 10.
24. *Ibid.*, p. 18.
25. See George Strayer, *The Report of a Survey of the Public Schools of the District of Columbia* (Wash., D.C.: Government Printing Office, 1949).
26. Paul Cooke, "Separate but Equal Education in the Public Schools of the District of Columbia," *Negro Educational Review*, 8 (July-October 1957), p. 121.

Nearly all the above-mentioned instances entailed principally racial discrimination. It was not until 1961 that the first full-scale study was made of intra-district inequalities which were not basically racial in nature. This was Sexton's analysis of Detroit, a city whose population a year earlier was 28.9 percent black. She found a systematic bias of school resources and expenditures against schools attended by children, white and black. She summarized:[27]

> A typical upper-income child . . . goes to a school that is safer, more suitable and adequate for his needs, more attractive inside and out, with much better facilities in most subjects, including science, music, art and library, and also with better lighting, lavatory, and other health facilities than the school attended by the average lower-income child.

The schools for poor children also had significantly greater numbers of less-trained and experienced teachers.

Kenneth B. Clark hailed Sexton's findings as erasing "any reasonable doubt that our public school system has rejected its role of facilitating social mobility and has become in fact an instrument of social and economic class distinctions in American society."[28] Other educational researchers, however, ignored the Sexton book. Jesse Burkhead and associates, in a book published three years after Sexton's, did not even discuss her evidence or conclusions. Instead, they were impressed by variability among schools in similar neighborhoods rather than by the variability of poor and rich schools:[29]

> . . . There are very often sharp differences in the quality of education in communities that seem to have the same general socioeconomic characteristics . . . Striking differences will be found among schools in the slum areas of large cities, and among neighborhoods that seem to be similar.

Class based differences were not even discussed.

Eight years after publication of the Sexton book, Johns and Morphet issued their book, *The Economics and Financing of Education,* in which they referred more than once to equality of educational opportunity. Inequalities operating to the detriment of poor children, however, were treated as unexceptionable and not

27. Patricia Cayo Sexton, *Education and Income Inequalities in Our Public Schools* (N.Y.: Viking Press, 1961), p. 122.
28. Kenneth B. Clark in *ibid.*, pp. viii-IX.
29. Jesse Burkhead with others, *Public School Finance. Economics and Politics* (Syracuse, N.Y.: Syracuse University Press, 1964), p. 86.

especially objectionable: "The educational opportunities available may be reasonably adequate or quite inadequate, but inequities usually have not been particularly obvious, except in the poverty or ghetto areas."[30] No references or further discussion was offered at this point. On the same page, the subject was taken up again:[31]

> However, there are variations in most school systems . . . Some children may have to attend in antiquated buildings or in schools to which frequently the less competent principals, teachers, and noncertified personnel have been assigned. In many systems, most of these are schools in underprivileged areas.

No indication was given as to the absolute or relative frequency of such variations. Nor, during the remainder of the chapter in which remedies for inter-district inequalities were described, was there any discussion of remedies for intra-district inequalities.

In other quarters, Sexton's research was welcomed, although only as subsidiary to some other concern. In 1968, for example, Wise's *Rich Schools, Poor Schools* was published. This pioneer work tried to formulate a constitutional theory whereby inter-district inequalities might be held in violation of the 14th Amendment. He noted:[32]

> The present study is not concerned with the problem of variation in expenditures among schools within a single district. That problem has received the attention of others . . .

Only Sexton was cited in a footnote at this point.

Thus, during the eight years following publication of Sexton's work, specialists in the field of educational finance had paid it little heed. The same thing had happened in earlier years and decades with respect to intra-district inequalities based on racial discrimination. The historical literature of educational finance is almost devoid of references to the fiscal realities of intra-district educational inequality.

A sobering implication of this traditional inattention to or slurring of intra-district inequalities is that virtually all present-day school administrators, government policy-makers, and researchers were nurtured at the same fount of formal ignorance. Until the present decade, only the rarest exception could be found.

Has the situation changed any during the 1970s?

30. Roe L. Johns and Edgar L. Morphet, *The Economics and Financing of Education. A Systems Approach* (Englewood Cliffs, N.J.: Prentice-Hall, 1969), p. 171.
31. *Ibid.*, pp. 171-172.
32. Stephan Michelson, "The Political Economy of Public School Finance," p. 172 in Martin Carnoy (ed.), *Schooling in a Corporate Society* (N.Y.: McKay, 1972).

For one thing, the literature reflects somewhat of a heightened awareness of the problem. Michelson writes that " . . . large inequalities occur within as well as between districts and . . . these inequalities are derived from the political process which favors wealth and whiteness."[32] This observation is weakened by an earlier comment of Michelson's: "As long as 'ruling class' children do not attend local schools, the system need not favor those middle-class children who do."[33] (What, however, if the middle class is itself one of the social groupings on whose rule the polity rests?) Michelson cited the unequal distribution of per pupil teacher costs in Detroit during 1970:[34]

	Percent Black		
Schools	**0-10**	**10-90**	**90-100**
K-6	$432	$374	$380
With K-7, K-8 or grades 6-9	$415	$391	$368

Children in the K-6 schools that were almost all-black lagged 13.7 percent behind the nearly all-white schools; children in the other schools lagged by 12.8 percent.

In 1971, Guthrie, Kleindorfer, Levin, and Stout published *Schools and Inequality.*[34a] It is the best example of school-finance research that embraces the three levels of the flow of resources: inter-district, school-by-school and within classrooms. On all three levels the researchers found resource inequalities related to race and socio-economic status: " . . . Individual schools that enroll large numbers of poor children tend to provide fewer and lower-quality services than schools that enroll small numbers of poor children."[34b] Within single schools, "inequities among individual students exist to the effect that poor children are provided with lower-quality services than wealthy children, almost regardless of the school districts in which they live, or the schools that they attend. Entire school districts were found to reflect socio-economic status and thus differential educational opportunity. The Guthrie group's study concerns Michigan, but it also surveyed the literature of the subject with great care. Unfortunately, the work did not influence much further work in the field which still suffers from a narrowness of conception, especially with regard to the levels of resources.

In comparing intra-district with inter-district inequalities, Grubb and Michelson formulated an important distinction: "Whereas inter-district and inter-state inequities arise from reliance on local financing and the market forces which tend to create homogeneous communities, inter-school inequities within districts

33. *Ibid.* p. 169.
34. *Ibid.*, p. 171.
34a. James W. Guthrie, George B. Kleindorfer, Henry M. Levin, and Robert T. Stout, *Schools and Inequality.* Cambridge, Ma.: MIT Press, 1971), p. 55.
34b. *Ibid.*

must be due to deliberate policies of resource allocation."[35] Further on, they conclude: "It is clear . . . that considerable intra-district differentials exist, and that some (though not all) of them are discriminatory, the results of political processes which favor wealth and whiteness."[36] Since single schools are not financed by separate taxes, financial differences between them cannot be accounted for by forces similar to those that operate between entire districts.

Levin, who shares the general orientation of Michelson and Grubb, has discussed the issue more systematically.[37]

> Those city schools with heavy concentrations of lower-class and non-white enrollments appear to have been discriminated against for years in the allocation of resources. School systems can get away with this kind of discrimination because the conventional school accounting systems do not report expenditures on a school-by-school basis. Furthermore, few school superintendents and other high officials will admit that such disparities exist since to do so would be politically dangerous. . . .

The acerbity of the criticism is matched by the specificity of the analysis. Few other writers have gotten down to such critical details as an accounting system.

Levin makes an important contribution to the discussion by questioning a principal technique used by just about every investigator of intra-district inequalities:[38]

> . . . Comparing dollar inputs between schools attended by minority students and those attended by middle-class whites is an erroneous way of measuring school resource endowments between races. To the degree that money is spent in both cases on teachers, curriculum, and other inputs that are more effective for white children than for black or Spanish-speaking students, dollar expenditures tend to overstate vastly the relative resources available to the latter group. Rather, the nominal resources devoted to the two groups of schools must be weighted by their effectiveness to ascertain their true values.

The statement's cogency lies in its insistence that educational effectiveness must be a prior criterion to simple magnitude of expenditures. Essentially, Levin is pointing out that one-hundred dollars

35. W. Norton Grubb and Stephan Michelson, *States and Schools. The Political Economy of Public School Finance* (Lexington, Ma.: Lexington Books, 1974), p. 61.
36. *Ibid.*, p. 66.
37. Henry M. Levin, *"Financing Education for the Urban Disadvantaged,"* pp. 8-9 in Sterling M. McMurrin (ed.), *Resources for Urban Schools: Better Use and Balance* (N.Y.: Committee for Economic Development, 1971).
38. *Ibid.*, pp. 11-12.

of ineffective education are not equal to a like sum of effective education. By treating them as equals, the educational productivity of the money is greatly exaggerated. Or more to the point, the magnitude of the educational inequality is greatly understated.

Equity for inner-city schools, concludes Levin, requires the reporting of school-by-school budgetary requirements and expenditures. This, he insists, is mandatory. In addition, he calls for the linking of reward structures to educational effectiveness either through market alternatives such as vouchers or political incentives such as decentralized schools.

A small group of researchers have investigated actual cases of intra-district inequalities.

Andrew and Goettel studied 120 elementary, junior high, and senior high schools in Rochester, Syracuse, and Community District No. 2 in New York City. They began with an observation that deserves to be a postulate in the field: " . . . The extent and impact of educational services can only be determined by understanding patterns of resource distribution to administrative units below that of the school district."[39] The researchers sought to discover whether funds flowed to those schools with the greatest educational needs and distinguished between state and local funds, on the one hand, and federal, usually compensatory, funds.

Andrew and Goettel found that "total resources from all sources of funding, both dollars and staff, are generally distributed according to educational need, but the pattern in the three cities is uneven."[40] They found, secondly, that "in all three cities schools with the smallest proportion of disadvantaged pupils consistently receive more dollars per pupil from local tax levy and general state funds than do those with higher proportions."[41] With reference to the number of staff per 1,000 students, however, there is a reversal of this pattern. A third finding was that "teachers in schools that have high levels of reading disadvantagement are consistently younger and less experienced and few have attained tenure than teachers in schools with higher levels of student achievement."[42] Andrew and Goettel stress, as did Levin a year before, the need for school-by-school budgeting and accounting. They note that "without direction from the state . . . few school districts will take the initiative . . ."[43]

39. Ralph Andrew and Robert J. Goettel, "School-by-School Resource Allocation and Educational Need in Three Urban Districts," p. 143 in Joel S. Berke and others (eds.), *Financing Equal Educational Opportunity. Alternatives for State Finance* (Berkeley, California: McCutchan, 1972).
40. *Ibid.*
41. *Ibid.*, p. 148.
42. *Ibid.*
43. *Ibid.*, p. 166.

Owen contributed two pieces of research to the discussion. In an article published in 1972, he reported his findings of a study of nine cities. "There is a significant tendency," he wrote, "for higher quality educational resources to be assigned to middle-class white neighborhoods."[44] As between race and class, which was more important in setting off a maldistribution of resources? Owen replies that "the influence of racial composition of the school appears to be somewhat greater than that of neighborhood income."[45] Finally, he found that the school districts, all of which distributed teacher resources unequally, did the same with physical resources. This experience matched the practice found by Sexton in Detroit.

In his book, published two years later, Owen explored the subject in greater detail while drawing certain conclusions about more general issues. For example, a one percent increase in neighborhood income was found associated with a 0.1 percent increase in the verbal ability of teachers and in salary expenditures by 0.43 percent.[46] It is Owen's treatment of the general issues that is especially of interest.

He writes that "the large center-city school system provides a good example of the way in which bureaucratic structures are used to undermine a manifest commitment to equality."[47] Interpreting school board policies of teacher assignment that have led to an unequal distribution of teacher resources, Owen comments that "the extent to which the school systems systematically assign their white teachers to their white students is a useful index of the degree to which they are actually bowing to the preferences of white parents for white teachers and of white teachers for white students."[48] He relates inequality of resources not only to a middle-class bias of school systems but also to "the well-established, 'normal' customs and traditions that underlie discrimination in the allocation of resources in large city school systems."[49] In the context of expanding equality during the past years, Owen insists that "the very considerable gains in equalizing educational opportunities for the black minority appear especially dependent on federal intervention to check the racist, or at least inegalitarian, tendencies of the state and local system."[50]

It is rather startling to encounter in Owen's book a topic which Cable had discussed 82 years earlier — i.e., to what extent did

44. John D. Owen, "The Distribution of Educational Resources in Large American Cities," *Journal of Human Resources*, 7 (Winter 1972), p. 27.
45. *Ibid.*, p. 34.
46. John D. Owen, *School Inequality and the Welfare State*, (Baltimore: Johns Hopkins University Press, 1974), pp. 20-21.
47. *Ibid.*, p. 14.
48. *Ibid.*, p. 23.
49. *Ibid.*, p. 27.
50. *Ibid.*, p. 147.

blacks pay for their own public schooling? Referring to an average expenditure per child — in 1969 — of $900, he writes[51]:

> Since the primary basis for educational expenditures is regressive local taxes . . . [blacks] pay a significant proportion of this cost despite their low income. Hence the gap between actual state expenditures on a black child and black school taxes paid per black child is probably much less than $900.

Perhaps more striking than this or that dollar figure is the apparent need to repeat Cable's contention so many years later.

Summers and Wolfe studied intra-district inequalities within Philadelphia. In elementary and junior high schools enrolling more blacks and poorer students, teachers were less well qualified in terms of the quality of their undergraduate education as well as in other measures; and principals were less experienced. Teacher vacancies were most numerous in all levels of schools enrolling many economically poor students.[52] Interestingly, they found that "in elementary schools, low-achieving students did best with relatively new teachers." The researchers did not indicate whether such students were more likely to be found in poor or better-to-do schools. Summers and Wolfe were less interested in resource differences as such than in the educational effectiveness of the resources.

Levy and his colleagues studied the distribution of resources among the 63 elementary schools of Oakland, California. As expected, it was found that in the years before 1970-71 "the well-paid teachers [were] concentrated in the upper-income, white schools."[54] During 1970, a new superintendent, black educator Marcus Foster, was employed. He set out to rectify the imbalance in per pupil teacher expenditures. Local and state funds were reallocated in favor of black schools, as follows:

Year	District personnel salary dollars per student: White schools	Black schools
1969-70	370	350
1970-71	416	466

Actually, teaching positions were equalized with local funds and then outside, compensatory funds were used to give the black schools an unaccustomed edge. (The Foster experiment ended

51. *Ibid.*, p. 89.
52. Anita A. Summers and Barbara L. Wolfe, "Intradistrict Distribution of School Inputs to the Disadvantaged: Evidence for the Courts," *Journal of Human Resources*, 11 (Summer 1976), p. 339.
53. Anita A. Summers, "Can Schools Make a Difference?", p. 51 in Ruth W. Woodling (ed.), *Critical Issues in Education* (Athens, Ga.: Institute of Government, University of Georgia, 1978), p. 51.
54. Frank Levy and others, *Urban Outcomes, Schools, Streets, and Libraries* (Berkeley: University of California Press, 1974), p. 78.

tragically when he was murdered by the Symbionese Liberation Army.)

B. Levin and colleagues examined intra-district inequalities in two California and five Michigan districts. They summarized their findings as follows:[55]

> District discretionary funds are usually concentrated in the schools of higher income and low minority populations, while state and federal compensatory funds are directed to low income high minority schools. District discretionary funds and compensatory monies, in some cases, were found to complement each other; that is, total expenditures for the lowest income, high minority schools and the highest income, white schools are almost equal . . . Even though rich and poor schools may receive equal dollars, these funds buy different types of teachers in terms of education and experience levels.

The findings varied, of course, from district to district.

Funds designated as compensatory were not, on the whole, used for this purpose. If they had been, every disadvantaged school would have had greater per pupil expenditures than non-disadvantaged schools. Compensatory funds theoretically are designed as an "add-on" to per pupil expenditures from regular funds that are presumably equal in all schools. "In nearly all of the districts studied," the Levin group reported, "compensatory funds are used to supplant district discretionary expenditures."[56] In other words, compensatory funds designed for schools attended by poor children are converted into a substitute for regular funds, while a portion of these latter funds becomes an add-on for the benefit of schools attended by non-poor students.

A summary of research on intra-district inequalities published in 1977 is reprinted at this point.[57]

An important study of intra-school inequalities was made by Winkler. This study goes beyond many of its predecessors in its findings regarding black and white achievement. Winkler studied the effect of schooling both at one point in time and over a relatively long period. The achievement gap between black and white students was viewed as resulting from a cumulative process of experiences. Winkler regarded the school environment as consisting of the composition of the school peer group and the school inputs

55. Betsy Levin and others, *Public School Finance: Present Disparities and Fiscal Alternatives*, 1 (Wash., D.C.: President's Commission on School Finance, January 1972), pp. 273-275.
56. *Ibid.*, p. 304.
57. Material corresponding to footnotes 58-78 is reprinted from Meyer Weinberg, *Minority Students: A Research Appraisal* (Wash., D.C.: Government Printing Office, 1977), pp. 79-81, 86-88.

(such as teachers, grouping practices, and others). His sample consisted of 388 black and 385 white students in urban secondary schools.

" . . . Compared to whites," Winkler writes, "blacks perform less well after 8 years of schooling than they did upon entering school." He adds that "it is difficult to believe that the schools may not share some responsibility for this phenomenon . . ."[58] Over their school careers, Winkler holds, black and white students do not experience equal school environments, even when they are schoolmates. The school's resources are differentially "productive", in learning, as between the races. Just how much of the resources a student gets depends in good measure on his race and his track within the school. Winkler found that black achievement rates varied more by track than when compared with rates of white students; the track effect was larger than the race effect. At the same time, the race effect was, in part, also a factor in tracking. Few blacks were in the college track; many were in the general track.

Thus, the white-black achievement gap is sharply differentiated by track. Winkler found that "the achievement gap between blacks and whites appears to decline as one goes from vocational to business to college track".[59] An additional factor measured by Winkler, and found related to achievement differences, was the difference or similarity between racial composition of the elementary and the junior school attended. This novel measure revealed that both black and white college track students tended to experience less of an abrupt change in transition since they more often came from a predominantly white elementary to a less white junior high school. Black and white students in the noncollege tracks, on the other hand, experience a more abrupt transition as they come from "whiter" elementary schools and enter "blacker" junior highs.

Among the specific school inputs that were significantly related to achievement differences was the quality of teacher element. In this context, "quality" covered whether teachers had been graduated from prestigious colleges, the amount of their postgraduate credit, their salary level, the extent of their experience, and — as teachers — their attitudes toward minority students. Winkler warns that the teacher's effect on achievement may have been overestimated in previous studies. As he explains, "teachers who have the most experience, the highest salary, the highest academic qualifications tend to choose to teach the best students."[60] Consequently, the high achievement of these students

58. Donald R. Winkler, *School Inputs, Educational Production, and the Achievement Gap Between Blacks and Whites*, p. 7, a paper presented to the December 1972 winter meeting of the Econometric Society.
59. *Ibid.*, p. 8.
60. *Ibid.*, p. 14

may result from a choice by the teacher rather than because of anything that happens in the process of instruction. (While Winkler does not raise the possibility, his observation could also apply obversely. That is, *less* qualified teachers might choose to teach low achievers, the more readily to avoid the embarrassment of their own inadequacy. In that event, a low teacher effect would also be spurious — i.e., it would reflect an act of teacher selection rather than the incapacity or the failure of children to learn. Possibly, a more adequate teacher could lead the same children to greater achievement. What, for example, would ensue if Winkler's best qualified teachers were to teach the lowest achieving children?)

Winkler arrived at a quantitative estimate of the relative importance of various resources in acounting for black-white achievement differences within each track. The following listing indicates his findings (expressed in percents):

Achievement Resources	Vocational track	Business track	College track
IQ	12.6	11.6	6.8
Home Environment	14.5	14.8	0.0
School Environment	36.2	27.3	63.7
Total, 3 Resources	63.3	53.7	70.5

Clearly, in each track the dominant factor in black-white achievement differences is school environment. In the college track, this single factor dominates the scene. In the business track, however, it barely exceeds in importance the combined force of IQ and home environment.

Other than teacher quality, Winkler pointed to racial and social composition of student peer group as critical. Black students seemed to suffer an achievement disadvantage because of sharp changes in racial composition and cultural milieu from elementary to junior high school. This would suggest that integration might well be moderated in his or interest. At the same time, however, Winkler found that black sixth graders suffered a learning disadvantage as the proportion of classmates of lower socioeconomic status rose. Thus, he concluded, integration by social class seemed appropriate. Since so few middle class blacks were available, social integration required racial integration. Children of higher socioeconomic status were more plentiful among whites.

Deprivation of tangible resources lay at the heart of educational discrimination in traditional southern society. Franklin notes that school boards regularly reduced expenditures on black schools before doing the same in white schools.[61] Bond adds that cuts in

61. John Hope Franklin, "Jim Crow Goes to School: The Genesis of Legal Segregation in the South," in Charles E. Wynes (ed.), *The Negro in the South Since 1865* (University, Ala.: University of Alabama Press, 1965), p. 147.

school funds for white schools might eliminate extracurricular activities while similar cuts for black schools resulted "in the shortening of terms, the discharge of teachers, or the closing of schools . . ."[62] Systematic racial discrimination in the employment of tangible resources has continued into the very recent past. In Memphis, teachers in black schools were frequently forced to raise funds by selling lunchsnacks in the classroom. Fundraising quotas were established for teachers. A black principal in that city told a reporter: "Success or failure in meeting quotas may even have affected the evaluations that principals have to make of teacher performances."[63] A high official of the schools acknowledged that "until a few years ago, the problems in Negro schools were largely ignored."[64]

Change in the racial character of neighborhoods has a significant effect on tangible resources made available to minority children. This seems to be the case regardless of the social class — but not the race — of the newcomers.

In Detroit, Stark studied how resources were allocated to 164 schools during the period 1940-1960. During these years, black population over the city as a whole rose from 9.2 to 28.9 percent. Those neighborhoods experiencing the greatest influx of blacks suffered the sharpest drop in educational quality. Since teacher salaries made up some 80 percent of instructional cost, much of the drop in quality reflected changes in distribution of teachers. Many experienced white teachers during these years left the changing areas and were replaced by persons classified as Emergency Substitute Teaching Position. This movement occurred within the framework of school board policy. At no time during 1940-1960 did the teachers union have a contract with the school board. Thus, the free transfer of experienced teachers resulted from the action of the school board and not from that of the teachers union.

During these years, observes Stark, "The stated aim of the Detroit Board of Education is one of equal expenditures per child. The data indicate that Detroit was not very successful in pursuing this objective."[65] Rather, more per child was spent in wealthier than in poorer areas. Relative deterioration of expenditures in black areas thus helped finance higher expenditures in white middle class areas. The "no-fail" policy, according to Stark, "frees many of these resources to be used on high socioeconomic status children."[66] This is true because retaining a child doubles the cost of its schooling. (In Memphis, Vincent reports that retention of only 10 percent

62. Horace Mann Bond, *The Education of the Negro in the American Social Order*, p. 170.
63. Herbert W. Robinson, Jr., in *Memphis Commercial Appeal*, March 28, 1970.
64. Shelby Counce, in *ibid.*, March 27, 1970.
65. Jay Irwin Stark, *The Pattern of Resource Allocation in Education: The Detroit Public Schools 1940 to 1960* (Doctoral dissertation, University of Michigan, 1969), p. 62.
66. *Ibid.*, p. 67.

of the black children would add over $4 million dollars annually to school costs.)[67]

Stark also pointed out a little-noticed implication of student mobility. Since it is generally higher among poor and minority children, the relationship of school resources to achievement for these children reflects not only the school attended at any given time but also the totality of schools attended in the past. Researchers such as Coleman, however, attribute much of achievement variation in a school to family background. Stark holds that if one adds up the cumulative effects of all the schools attended by a single child, achievement will be viewed as less dependent on family background and more on the school's effects. The black child is therefore even more open to school influence than Coleman-type inquiries concede. Thus, concludes Stark:[68]

> . . . The conflict between equity and efficiency was resolved neither equitably nor efficiently. Detroit devoted fewest resources to the children who could benefit most from them.

The eclipse of social class by race is illustrated in the matter of the Windsor Hills school in Los Angeles. In that case, an upper middle class area changed its racial, but not its social, complexion. Black parents found they had to insist that school authorities not reduce the breadth of academic offerings as well as the span of extracurricular activities.[69] While no quantitative data are available, the example illustrates the educational risks of racial change.

Empirical studies of unequal resources within a single school system are by no means numerous. In 1970, a research team, advisory to a Federal Government agency, reported on inequalities in the distribution of experienced teachers in the Chicago public schools.[70] In the 1970-71 school year, Berk and Hartmann found the city schools were spending 9.2 percent more on instructional expenses for each white child than for black children. For teacher salaries only, the discrepancy rose to 10.9 percent.[71] In the same school year, Walberg and Bargen also studied the situation in Chicago. They found white schools were receiving significantly more per student both in terms of more educated and more experienced teachers. Academic achievement was associated with higher teacher quality. "It is disturbing," write the researchers in apparent agreement with Stark, "that minority groups get lower 'teacher quality', even though they are compensated with smaller class sizes,

67. David Vincent, "The Uneducation of Black Students," *Memphis Commercial Appeal*, March 27, 1970.
68. Stark, *The Pattern of Resource Allocation in Education*, p. 63.
69. See Olive Walker, "The Windsor Hills Story," *Integrated Education*, 8 (May-June 1970), pp. 4-9.
70. See *Integrated Education*, 8 (September-October 1970), pp. 63-64.
71. Richard A. Berk and Alice Hartmann, "Race and School Funds in Chicago, 1971," *Integrated Education*, 10 (January-February, 1972), p. 57.

because minority children, particularly Negroes, appear to benefit more than whites from better teachers,'"[72]

Even fewer studies exist for New York City. Landers examined per student expenditures in 1970-71 for the city's 65 academic high schools. His findings are consistent with those in Detroit and Chicago;

> . . . The greater the reading retardation in a school, the higher the pupil-teacher ratio — i.e., the greater the number of pupils per teacher . . . The greater the reading retardation in a school, the smaller the percentage of teachers with more than 3 years experience.[73]

Overcrowding was found to be directly related to reading retardation. In the four lowest achieving high schools 59.4 percent of the students were 2 or more years behind norm in reading while in the four highest achieving high schools fewer than 1 percent were that far behind. Yet, the former schools were 42 percent over-utilized; the latter, 5 percent underutilized.[74] Landers, an assistant superintendent in the New York City system, recalled the school board's pledge in 1958 that it favored "the quantitative and qualitative reassignment of school personnel, in terms of the proportionate needs of the school populations involved . . ."'[75]

Virtually every study yet made on per student share of teacher costs has depended on citywide data provided by the school board. These data do not reflect actual expenditures but are merely budgeted amounts which are nothing but authorizations to spend. It is likelier that budget figures understate inequalities rather than the reverse.

Teacher salary figures — as baselines — do not permit the outsider to distinguish between salary and fringe benefits. Landers has explained the potential impact of fringe benefits on inequality of expenditure:

> A beginning substitute teacher costs $6,200 plus 7 percent in fringe benefits for a total cost of $6,634. A teacher on maximum (salary) costs $12,000 plus 30 percent in fringe benefits for a total cost of 16,380 . . . This fact would be unimportant if teachers at different levels of service, licensing, and educational preparation were distributed equally among the schools . . . The fact is

72. Herbert J. Walberg and Mark Bargen, "School Equality," in Herbert J. Walberg (ed.), *Evaluating Educational Performance. A Sourcebook of Methods, Instruments, and Examples*, Berkeley, Calif.: McCutchan, 1974), p. 237.
73. Jacob Landers, "Profiles of Inequality in New York City," *Integrated Education*, 11 (January-February 1973), p. 10.
74. *Ibid.*, p. 12.
75. *Ibid.*, p. 13. See, also, Daniel Dobin, *The Failure of Academic High Schools in New York City* (Brooklyn, N.Y.: Brooklyn Education Task Force 1970) and Carol Wielk, "White Academic Failure in Brooklyn High Schools," *Community*, 2 (February 1970).

that these levels are unequally distributed throughout the school system. It is a matter of common knowledge . . . that the schools for poor children have fewer experienced teachers and more substitutes.[76]

Suppose one school were staffed entirely with substitutes at beginning pay, and another with teachers at maximum step on the salary schedule; assume the two schools employed 35 teachers and served 1,000 students each. Total teacher costs in the first school would be $232,190 or $232.19 per pupil; in the second school, teacher costs would be $573,330 or $573.33 per pupil. While few, if any, schools in reality duplicate these figures, a number do approximate them. Interestingly, Landers states that — to the best of his knowledge — no study of actual staff costs had been made in New York City. In the absence of such research, an unacknowledged cloud of unreality envelops discussion and study of inequality of educational opportunity. Widespread failure by researchers to undertake detailed school-by-school studies has resulted in false impressions as to the allocation of resources within school systems.[77] Some of these shortcomings have been overcome by various studies.[78]

3. Legal Aspects

During post-Civil War years, state-financed public schools first became general in the South.[78a] A number of states specifically forbade any discrimination in appropriations to black and white public schools. In others, separate and unequal were linked from the beginning. Black citizens were strong enough to enforce equality in some states of the Deep South, paradoxically, but not in border areas. In 1877-1880, per capita expenditures on black and white schools in South Carolina were comparable. In Alabama there was a slight edge in favor of black schools, although this resulted from lower average attendance in black schools. In North Carolina, expenditures were comparable. On the other hand, in Maryland during the 1870s, Negro students received only about one-quarter the amount spent for white children. During the mid-1870s in the District of Columbia except for the M Street High School, "all the

76. Jacob Landers, Testimony at Public Hearing on "Education in New York City for Low Income Youngsters," November 16, 1967, pp. 21-22.

77. See, Martin T. Katzman, *The Political Economy of Urban Schools* (Cambridge, Mass.: Harvard University Press, 1971), which — despite its title — deals not with *schools* but school *districts* composed of up to five schools each. The same conceptual problem is true of Arthur R. Jensen, "Do Schools Cheat Minority Children?" *Educational Research*, 14 (1971), pp. 3-28, a detailed study of a 35-school district as well as of 191 school districts in 10 counties. In no case are figures presented for individual schools. While economists and psychologists persist in studying school districts, children continue attending schools.

78. See John D. Owen, *Racial Bias in the Allocation of Teachers in Sixty-Nine Urban Elementary School Systems, November 1979*, ERIC ED 034 838 and Eric Jay Toder, *The Distribution of Public School Teachers by Race and Income Class in an Urban Metropolitan Area, Final Report*, March 1971, ERIC ED 050 210.

78a. Material corresponding to footnotes 79-82 and 84-88 is reprinted from Meyer Weinberg, *A Chance to Learn* (N.Y.: Cambridge University Press, 1977), pp. 46-49.

colored schools were undeniably inferior to the white." By the end of the decade, per capita expenditures, which were almost equal in 1875, had become markedly unequal.[79]

The last two decades of the nineteenth century were an educational catastrophe for black children and their parents. The number of black children of school age grew by one-quarter, but the proportion attending school fell.[80] The black man, deprived of his status as a free citizen, found that in one state after another his right to vote was denied. Mississippi led the retreat in 1890. Six additional states followed by explicit provision in new state constitutions until 1908. Four states accomplished the same end by more roundabout means. In 1898, the U.S. Supreme Court's upholding of the use of literacy tests for voting in Mississippi acted as a signal for disfrancisement to proceed. Negroes lost the only guarantee they possessed that their children would get an equal and effective claim on the educational resources in their states.

In 1883, black parents brought suit in federal district court, charging that the city of Owensboro, Kentucky, had violated the equal protection requirement of the Fourteenth Amendment by financing schools through two separate taxes. They said that, as a result of the dual financial system, 500 black children were financed by a total tax revenue of $770 and attended school for only three months; 800 white children shared $9,400, and enjoyed a school year of from nine to ten months. The court ruled that "the equal protection of the law guaranteed by this amendment must and can only mean the laws of the state must be equal in their benefit as well as in their burdens, and that less would not be the equal protection of the laws." This rule did not require exactly equal expenditures between the races; however, the court said, it did "mean the distribution of the benefit upon some fair and equal classification or basis."[81]

Two similar cases were decided by the North Carolina supreme court in 1886. In *Puitt,* a taxing scheme parallel to the one struck down in Kentucky was rejected.[82] In *Riggsbee,* a school taxing law was ruled in violation of Article 9, 2 of the state constitution which forbade racially discriminatory taxes.[83] A school law in 1881 had provided for the creation of "graded schools" for whites and "colored schools" for blacks. The former were supported by proceeds from white taxes, the latter from taxes paid by blacks. Collection of the tax was enjoined by the high court.

79. W.E.B. DuBois (ed.) *The Negro Common School* (Atlanta University Press, 1901), p.49.
80. Enrollment rates for white children also fell during the same period. The primary reason was the lower rate of attendance of foreign-born whites and their children. Many immigrants entered the United States during these years.
81. *Claybrook* v. *Owensboro,* 16 Fed. R. 302 (1883).
82. *Puitt* v. *Comissioners,* 94 N.C. 519 (1886).
83. *Riggsbee* v. *Town of Durham,* 94 N.C. 800 (1886).

The clear implication of both the *Claybrook* and *Puitt* decisions was to strengthen equality of treatment of black and white children. Yet, they were used to the opposite end. The decisions required only that no racial distinction enter into allocation of school funds by the state. Nothing was said of other discriminatory techniques, nor were points of distribution of funds other than the topmost state officials mentioned. This left the local level unregulated for discriminatory potential.

States were scrupulous in satisfying the formal requirements of *Claybrook* and *Puitt* and appropriated equal amounts for black and white. At county levels, where the money was actually allocated to specific schools, the myth of equality broke down. Officials regularly took funds that belonged to black schools and added these to the allocations for white schools. In South Carolina, the result was astonishing. In the late 1870s, equal appropriations were a fact; by 1895, after localization of allocation, per pupil expenditures in white schools were nearly three times those in black schools.[84]

Mississippi, in 1886, set up differential teachers' salaries based on examinations. Black teachers were regularly classified in the lowest group. The practice spread. By 1907, Du Bois said of black teachers' salaries throughout the South that "the salaries are so small that only the poorest local talent can teach."[85] Getting a new school built became a rare achievement. Acquisition of the barest instructional equipment was left to private means. One black teacher, conducting school in Old Poplar's Church, Virginia, explained: "My pupils had to bring pennies until we got a sufficient number to buy even a piece of blackboard. We had no desks or other suitable furnitures nor were slates, pencils, or paper furnished, let alone books."[86] Parents in the area collected old rags and exchanged them at the sawmill for lumber. Other gathered a plant whose extract was useful in tanning leather; they exchanged bags of the plant at the general store for nails and windowpanes for the new school. The old school then was closed for two weeks to enable the teacher to help the carpenter construct the building. All this of course, was within the context of a public school system that seldom delivered capital funds to black schools.

In 1891, the Alabama legislature passed the Apportionment Act, directing the state superintendent to transmit school funds to the townships which were to distribute among the schools "such an amount . . . as they may deem just and equitable." The legislation was legal permission to raid appropriations for black schools. In those townships where Negroes far outnumbered whites — the so-

84. George Brown Tindall, *South Carolina Negroes, 1877-1900* (Columbia: University of South Carolina Press, 1914), p. 216.
85. DuBois, "Economic Revolution in the South," p. 103.
86. Thomas Calhoun Walker, *The Honey Pod Tree: The Life Story of Thomas Calhoun Walker* (N.Y.: Day, 1958), p. 45.

called Black Belt — white schools prospered at the expense of black schools. In fact, the "blacker" the school district, the bigger the raid upon its state apportionment. Essential to the long-run success of the principle of equality was the suppression of effective black protest. Ten years after the Apportionment Act was passed, a state constitutional convention disfranchised blacks. Bond, the principal authority on these events, writes: "From 1901, with Negroes thoroughly disfranchised, all emphasis was laid on the education of 'white' children in the State. . . . So far as educational campaigns were concerned, Negro children did not exist in the State."[87]

In Texas, the state constitutional requirement of 1869 that free public schools be open to all was enforced fitfully or not at all. In 1876, the legislature created a community system of school finance. A community was an area without definite boundaries, delimited only by the location of school-age children listed as residing in the general area. The operation of schools in a community was purely a matter of local option. Only where Negroes made up a large part of the community was it likely that a local school tax would be levied. Otherwise, only state and county funds were available. When, in, 1884, the state constitution was amended to create a school district system, a number of counties, most with a heavy concentration of blacks, were allowed to continue in the community system. In the older community system a number of blacks had served as trustees: district boards were invariably white. In 1893, joint districts of black and white schools were created, with the trustees of each race to control their respective schools in the district. At the same time, safeguards were written in the law to enforce equal appropriations. In only two years time, a new formula to favor white schools was adopted and trustees were made elective, almost ensuring that only whites would serve. To guarantee this outcome, in 1899 the law was changed to specify that three white trustees were to manage all the schools. Systematic and sweeping discrimination against black schools followed.[88] Three years later, indirect disfranchisement was achieved by a poll tax.

Those southern courts which had in better days asserted constitutional guarantees plainly designed to protect black rights began to give way. In 1902, for example, the North Carolina supreme court, in *Hooker,* still struck down a plain violation of the state's constitutional prohibition of "discrimination in favor of, or to the prejudice of either race". It explained its conception of the law's requirement: "That is, one white child of the school age shall have the same amount of money per capita as a colored child, and no more; and the colored child shall have the same amount per capita

87. Horace Mann Bond, *Social and Economic Influences on the Public Education of Negroes in Alabama,* 1865-1930 (Washington, D.C.: Associated Publishers, 1939), p. 192.
88. William R. Davis, *The Development and Present Status of Negro Education in East Texas* (New York: Teachers College Columbia University, 1934), p. 38.

as any white child, and no more; that both races shall have equal opportunities for an education, so far as the public money is concerned."[89]

Three years later the same court still held "there must be no discrimination for or against either race."[90] Ominously, however, it lowered considerably the standard of equal protection.[91]

> Much must be left to the good faith, integrity, and judgment of local boards in working out the difficult problem of providing equal facilities for each race in the education of all the children of the state. Local conditions, relative numbers, and other well-recognized factors enter into the problem, and must be dealt with in a spirit of justice to all concerned, and to promote the honor and welfare of the state.

To obviate any doubts, the court explicitly repudiated its *Hooker* decision of only three years before: " . . . The language used . . . which seems to hold that in no other way than by a per capita distribution of all taxes collected for public schools can the [state] Constitution be observed, does not meet our approval."[92] Thus did judicial activism lay the basis for sweeping and systematic short-changing of black school children.

Inequality within single school districts was given judicial approval in Topeka, Kansas during 1903 by a state court. In *Reynolds,* a black father who had tried to enroll his son in a white school which was clearly superior to the black school lost his case. The court ruled:[93]

> True, for the accommodation of a numerous white population a much larger and more imposing school building is provided than that set apart for the few colored children in the district. This, however, is but an incidental matter, and necessarily unavoidable in the administration of any extended school system. Schoolhouses cannot be identical in every respect; but parents cannot, on this account, dictate the one their children shall attend.

A half-century later, material differences among white and black in the same district produced an historic ruling.

Two cases during the 1920s in Oklahoma declared for equality, one in ringing terms. In *Guthrie,* a state court held that taxes must

89. *Hooker* v. *Town of Greenville,* 42 SE 141 (1902).
90. *Lowery* v. *Board of Graded School Trustees in Kennersville,* 52 SE 267 (1905).
91. *Ibid.,* p. 272.
92. *Ibid.*
93. *Reynolds* v. *Board of Education of the City of Topeka,* 66 Kansas 672 72 Pac. 274 (1903).

be raised to provide black children "schools with adequate facilities and school terms equal to that of the other schools."[94]

The *Jones* decision by the state supreme court in 1923 concerned Muskogee. Blacks made up 23.3 percent of all students but their plant constituted only 13 percent of the value of physical plant, their share of the operating budget was 9.6 percent, their teachers were paid only 58.4 percent of white teachers' pay, their school year was a month and a half shorter than that of white students, and their class size was nearly one-third larger than that of whites.[95] In six classrooms of the black schools, only half-sessions were in force; none apparently, were in the white schools. Black schools had an exceedingly narrow curriculum. "We agree with counsel for plaintiffs," declared the high court, "that equal protection means, not only equal taxation, but equal benefits of the taxes when levied and collected . . . "[96]

Sixty years earlier, when a federal district court in Kentucky had used the equal taxation-equal benefits argument, it might have appeared that a mighty principle was being enunciated. In *Cumming*, however, the U.S. Supreme Court had repeated the phrase even as it was being emptied of meaning. After 1923, the phrase as well as the reality behind it disappeared for many years. In Oklahoma, the requirements of equal protection were evaded by means of an ingenious school finance system.[97]

In 1954, the U.S. Supreme Court decided *Brown* but equivocated on the issue of intra-district inequalities. Interestingly, the tribunal reversed if not *Plessy* then the slogan of that historic decision. What the high court had phrased as "equal but separate" its 1954 successor converted into " separate but equal", thus subtly substituting the issue of segregation for that of deliberate deprivation of material benefits. To justify this transposition, the *Brown* court declared intra-district inequalities in the states affected had all but disappeared: "Here . . . there are findings below that the Negro and white schools involved have been equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other 'tangible' factors."[98] An accompanying footnote cited courts in Kansas, South Carolina, Virginia and Delaware which had "found substantial equality." Accordingly, in the mind of the Supreme Court, "our decision . . . cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases."

94. *Board of Education of the City of Guthrie* v. *Excise Board of Logan County*, 206 Pac. 517 (1922).
95. *Jones* v. *Board of Education of the City of Muskogee*, 217 Pac. 400 (1923)
96. *Ibid.*, p. 403.
97. See Weinberg, *A Chance to Learn*, p. 62.
98. *Brown* v. *Board of Education*, 347 U.S. 492 (1954).

A crucial question was framed: "Does segregation of children in public schools solely on the basis of race, even though the physical facilities and 'other tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities?"[99] The court replied in the affirmative. It should be noted that *Brown* did not decide that material inequalities were irrelevant to the crucial question. Indeed, the construction of the question suggests that material inequalities would add force to the court's conclusion that segregation was unconstitutional. If it was now constitutional doctrine that "separate educational facilities are inherently unequal", then it could be said that separate *and unequal* facilities are even *more* unequal.

What was the factual basis of the judgments of the "courts below"? Note that no mention was made of a fifth case — Washington, D.C. Only five years before *Brown,* a thorough survey of school facilities in the District found extraordinarily large inequalities between black and white schools. The evidence in *Hobson* I and II (1967 and 1971) establishes clearly that equalization even at those late dates had not been attained. *Brown* related that the district court in South Carolina had found the defendants to be proceeding "promptly and in good faith to comply with the court's decree." Such progress was largely imaginary. Eighteen years after *Brown,* neighboring School District No.2, Clarendon County, South Carolina, was spending $305.91 on each white student but only $119.89 on black students.[100] In 1966, U.S. District Judge Hemphill concluded "there is no credible evidence of a bona fide attempt to comply with *Brown* v. *Board of Education of Topeka.*"[101] Other evidence suggests equalization in Virginia as of 1954 was an invention by that state's attorney general that the Supreme Court was eager to believe.

Eleven years passed before the Supreme Court returned to the issue of "tangible" inequalities. In *Rogers* and *Bradley,* decided in 1965, the high court ruled "racial allocation of faculty" might be considered when adjudging whether a desegregation plan was acceptable to a court.[102] During 1966-1967, various federal district and appeals courts dealt frontally with the issue of intra-district inequalities.

In 1966, for example, Judge Hemphill ruled in a Clarendon County, South Carolina case. The degree of inequality, a dozen years after *Brown,* was shocking:[103]

99. *Ibid.*, p. 493.
100. *Miller* v. *School District No. 2, Clarendon County, S.C.*, 253 F. Supp. 552 (1966).
101. *Ibid.*, p. 556.
102. See *Rogers* v. *Paul,* 382 U.S. 198 (1965) and *Bradley* v. *School Board of the City of Richmond,* 382 U.S. 103 (1965).
103. *Miller* v. *School District No. 2, Clarendon County, S.C.*, 253 F. Supp. 556.

> . . . [The] per pupil value [of the buildings, land, and equipment] in use for white students is much greater than that for Negro students . . . The per pupil expenditures for instructional materials for white pupils exceed that for the Negro pupils by a ratio of eight to one.

Libraries, language training equipment, and business education aids for black students were inferior. Only the white elementary schools were accredited. Judge Hemphill concluded: "The dual system of Clarendon County School District Number 2, based on race, and constantly generating racism, cannot continue if all citizens are to have the equal protection of the law."[104]

The same year, in the *Jefferson* decision, the U.S. Court of Appeals for the Fifth Circuit — whose jurisdiction was mainly parts of the Deep South and Texas — explored the subject of intra-district inequalities in unprecedented depth. Writing for the court was Judge John Minor Wisdom.

Brown, he wrote, requires the integration of students, faculties, facilities, and activities. The Constitution was both color blind and color conscious. In order to offer blacks equal educational opportunities, "the means to the end, such as disestablishing segregation among students, distributing the better teachers equitably, equalizing facilities, selecting appropriate locations for schools, and avoiding resegregation must necessarily be based on race."[105] He acknowledged efforts were underway to equalize facilities in the South, but noted the presence of many inferior school buildings readily identifiable as black as well as superior white schools. Inferior schools should be closed and remedial programs be offered to help overcome "the past inadequacies of all-Negro schools."[106]

The appeals court proposed a standard desegregation decree which contained a section entitled "School Equalization." This was further divided into two subsections: Inferior Schools and Remedial Programs. Under the former, the following explanation appeared:[107]

> In schools heretofore maintained for Negro students, the defendant shall take prompt steps necessary to provide physical facilities, equipment, courses of instruction, and instructional materials of quality equal to that provided in schools previously maintained for white students. Conditions of overcrowding, as determined by pupil-classroom ratios shall, to the extent feasible, be distributed evenly between schools formerly maintained

104. *Ibid.*, p. 557.
105. *U.S.* v. *Jefferson County Board of Education,* 372 F. 2d 877 (1966).
106. *Ibid.*, pp. 891-892.
107. *Ibid.*, pp. 899-900.

for Negro students and those formerly maintained for white students.

Each October, the school district would have to submit to the court a detailed record of data relating to the above and a timetable for equalizing specific schools.

Under the latter subsection, the proposed decree simply directed defendants to "provide remedial education programs which permit students attending or who have previously attended all-Negro schools to overcome past inadequacies in their education."[108] No reporting procedure was stipulated.

The school district asked to have the entire Appeals Court rehear the case; the request was granted. Upon rehearing, however, Judge Wisdom's opinion was approved. One dissenter, Judge Griffin B. Bell, complained that the scope of the opinion "is only a short step from taking over [the] curriculum."[109]

The decree became standard in the Fifth Circuit. During 1967, for example, variants of it were ordered in *Lee V. Macon County* and *Hill* v. *Lafourche Parish.*[110] The most renowned of intradistrict rulings that year, however, was *Hobson* v. *Hansen,* regarding Washington, D.C.

The court found that per pupil expenditures in heavily black schools were somewhat less than two-thirds those in heavily white schools. Black schools were overcrowded, had fewer kindergartens than did white schools, and in the poorest area, were "ancient and rundown." Reading scores of black children were systematically lower than those of whites. A rigid track system guaranteed that poor blacks would be concentrated in those tracks that did not lead to higher education or desirable employments. He ordered "a plan for pupil assignment eliminating the racial and economic discrimination found to exist in the operation of the Washington public school system."[111] The faculty was also to be integrated at each school. A voluntary student desegregation plan was drawn up. Judge J. Skelly Wright's opinion bristled with a resolve to overcome the sweeping inequalities detailed ever so graphically.

A year later, the U.S. Supreme Court touched on the issue of intradistrict inequalities in *Green,* a case involving a small Virginia district. "Racial identification of the system's schools was complete," the court observed, "extending not just to the composition of student bodies at the two schools but to every facet of school operations — faculty, staff, transportation, extracurricular activities

108. *Ibid.*, p. 900.
109. *U.S.* v. *Jefferson County Board of Education,* 380 F. 2d 385, at 416.
110. See *Lee* v. *Mason County Board of Education,* 267 F. Supp. 458 (1967), and *Hill* v. *Lafourche Parish School Board,* 291 F. Supp. 819 (1967).
111. *Hobson* v. *Hansen,* F. Supp. 401, at 407 (1967).

and facilities."[112] Any lasting remedy, it was implied, would have to embrace the broad range of racial identifications.

In 1971, in *Swann,* the Court dealt more directly with the issue. Recalling its statement in *Green,* quoted above, the tribunal declared:[113]

> Independent of student assignment, where it is possible to identify a "white school" or a "Negro school" simply by reference to the racial composition of teachers and staff, the quality of school buildings and equipment, or the organization of sports activities, a *prima facie* case of violation of substantive constitutional rights under the Equal Protection Clause is shown.

The Court seemed to be pointing to a dimension of the problem that vaulted the distinction between *de facto* and *de jure* segregation of students.

In any event, a remedy would be needed to meet the challenge of such broad constitutional violations:[114]

> When a system has been dual in these respects, the first remedial responsibility of school authorities is to eliminate invidious racial distinctions. With respect to such matters as transportation, supporting personnel, and extracurricular activities, no more than this may be necessary. Similar corrective action must be taken with regard to the maintenance of buildings and the distribution of equipment. In those areas, normal administrative practice should produce schools of like quality, facilities and staffs.

The Court cautioned that where deliberate segregation had been demonstrated, school district and district courts had to ensure that "future school construction and abandonment are not used and do not serve to perpetuate or re-establish the dual system."[115]

These aspects of *Swann* were greatly overshadowed by the pupil-assignment dimension of the case. Nevertheless, the former constituted a significant step in the formulation of the highest tribunal's approach to intra-district inequalities. The more attention paid to material inequalities, the closer one came to the actual locus of inequality — i.e., the school within the district.

The year 1971 was the fourth anniversary of *Hobson* but there was little for the plaintiffs to celebrate. Intra-district inequalities

112. *Green* v. *County School Board of New Kent County,* 391 U.S. 430, at 435 (1968).
113. *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, at 18 (1971).
114. *Ibid.*
115. *Ibid.,* p. 21.

had not demonstrably diminished while a small-scale voluntary student busing plan affected the schools only marginally. The indirect remedies Judge Wright included in the 1967 ruling were fruitless. In *Hobson II* decided in 1971, the court dealt frontally with a number of specific inequalities revealed in the evidence. Most significant was the requirement that per pupil expenditures on teacher salaries and benefits from local budgets could not deviate more than five percent from the average for all elementary schools.[116] The specific technique for achieving this result was left to the school district. It could move teachers, lessen class size, or add compensatory services such as additional teachers and the like.

How the decree under *Hobson II* worked out will be described in the next issue of the *Research Review of Equal Education.*

In 1973, a federal district court in New Mexico decided *Natonabah* in which Indian American parents charged the Gallup-McKinley public schools with discriminating against heavily Indian schools. The court found:[117]

> . . . The district has failed to allocate per pupil expenditures on an equal basis throughout the system with the results that inequalities exist in school building investment, equipment allocation, provision of materials, supplies, and expenditures for instructional services. Further, Indian students in the district generally do attend overcrowded schools, some of which have not met state standards for accreditation.

Revenue derived from the sale of local bonds was found to have been allocated "almost exclusively" to non-Indian schools. The district was also using federal funds designed for compensatory purposes in Indian schools as a substitute for local funds, in violation of the Johnson-O'Malley Act.

A federal court in Chicago decided the *Brown* case in 1974. Plaintiffs had charged schools enrolling poor and minority children were systematically short-changed. Judge McLaren agreed that during 1970-71 and earlier, the city's school board had engaged in racial discrimination through unequal expenditures. During the following two years, however, the court found "the board made substantial progress in equalizing per pupil expenditures in schools with different racial compositions."[118] The complaint was dismissed.

In an interesting dictum, Judge McLaren addressed the contention of defense counsel that educational research did not clearly

116. *Hobson* v. *Hansen,* 327 F. Supp. 844 (1971)
117. *Natonaba* v. *Board of Education of Gallup-McKinley County School District,* 355 F. Supp. 716 at 724 (1973).
118. *Brown* v. *Board of Education of the City of Chicago,* 386 F. Supp. 110, at 118 (1975).

establish a causal connection between expenditure of school funds and good education. He wrote: "Yet even if money had no clear impact on the quality of education, the equal protection clause would still require with respect to race that all students be afforded the same chance to discover that fact for themselves."[119]

In 1974, Puerto Rican and other parents of students in P.S. 19, in New York City, sued Community School Board 14 for deprivation of their civil rights. The specific condition complained of was the short-time instruction children received because of double-sessions at the school. The judge in the case ordered the school to provide compensatory instruction to the affected children.[120] Later in the year, the parents' complaint was widened by a charge that their children were being further disadvantaged by diversion of federal bilingual funds to non-public schools. The court ordered a test be given children and this action was appealed the next year.

In 1977, the U.S. Supreme Court in *Milliken II* made its broadest statement yet on intra-district inequalities. The issue concerned a district court's requirement in the Detroit desegregation case that the state of Michigan be required to share the cost of certain special educational programs to help overcome the effects of segregation. These programs included reading, counselling, and others. The high court held:[121]

> . . . Discriminatory student assignment policies can themselves manifest and breed other inequalities built into a dual system founded on racial discrimination. Federal courts need not, and cannot, close their eyes to inequalities, shown by the record, which flow from a longstanding segregated system. . . . Pupil assignment alone does not automatically remedy the impact of previous, unlawful educational isolation; the consequences linger and can be dealt with only by independent measures. . . .

Milliken II was more a codification of parts of earlier rulings by the Supreme Court and by lower courts than completely new doctrine. Novelty lay in approval of a state's duty to promote educational remediation under the circumstances than in the remediation itself.

In a concurring opinion, Justice Powell wondered whether "there is any precedent for a federal court exercising such extensive control over the purely educational responsibilities of a school board."[122] Contending the circumstances in Detroit were "exceptional", he concluded the court's unanimous decision would have

119. *Ibid.*, footnote 3, p. 121.
120. *Parents' Committee of Public School 19 v. Community School Board, N.Y.* 524 F. 2d 1138, at 1139 (1975).
121. *Milliken* v. *Bradley*, 433 U.S. 267 (1977).
122. *Ibid.*

"little precedential effect." He was countered by Justice Marshall in a separate concurring opinion who found the most tragic aspect of the case to be its lack of uniqueness. Northern school segregation, he observed, was not unusual: "That the academic development of black children has been impaired by this wrongdoing is to be expected."[123] From this circumstance ordering remediation was "inevitable." The opinion of the court, written by Chief Justice Burger, made no reference to the issue under contention by Justices Powell and Marshall.

After a comparative moment of intra-district equality between black and white schools, the close of Reconstruction began a process of legalized fiscal inequality. North Carolina courts pioneered in requiring equal benefits for equal taxation. Even earlier, a lower federal court had ruled likewise. Around the turn of the century, directions were reversed. The U.S. Supreme Court approved intra-district inequality on a racial basis in *Cumming*. In less than a decade, the North Carolina supreme court retreated from its previous high ground. State school statutes were written so as to permit locally powerful groups to degrade black schooling as they wished. Occasionally, the old doctrine of intra-district equality was sounded, as in Oklahoma, but the everyday reality of black schooling in the state was deaf to the fact.

The U.S. Supreme Court retreated gingerly from its *Cumming* position by 1954, but its announcement of the occasion was wishfully abstract, asserting a degree of equality in the *Brown* states that bore little resemblance to the empirical situation. Lower federal courts, and especially the U.S. Court of Appeals for the Fifth Circuit, renewed the federal judiciary's interest in intra-district inequalities a dozen years or so after *Brown*. Slowly and sporadically the Supreme Court began to incorporate educational components in its decisions. By 1977, in *Milliken II*, it unanimously declared the need for school districts and state governments to eliminate intra-district educational inequalities that were linked causally to the existence of illegal segregation.

123. *Ibid.*

Board of Education of the City of Guthrie, v. *Excise Board of Logan County,* 206 Pac. 517 (1922)
Bradley v. *School Board of the City of Richmond,* 382 U.S. 103 (1965)
Brown v. *Board of Education,* 347 U.S. 492 (1954)
Brown v. *Board of Education of the City of Chicago,* 386 F. Supp. 110 (1975)
Claybrook v. *Owensboro,* 16 Fed. R. 302 (1883)
Green v. *County School Board of New Kent County,* 391 U.S. 430 (1968)
Hill v. *Lafourche Parish School Board,* 291 F. Supp. 819 (1967)
Hobson v. *Hansen,* 269 F. Supp. 401 (1967)
Hobson v. *Hansen,* 327 F. Supp. 844 (1971)
Hooker v. *Town of Greenville,* 42 S. E. 141 (1902)
Jones v. *Board of Education of the City of Muskogee,* 217 Pac. 400 (1923)
Kelley v. *Altheimer, Arkansas Public School District No. 22,* 378 F. 2d 483 (1967)
Lee v. *Macon County Board of Education,* 267 F. Supp. 458 (1967)
Lowery v. *Board of Graded School Trustees in Kennersville,* 52 S.E. 267 (1905)
Miller v. *School District No. 2, Clarendon County, S.C.,* 253 F. Supp. 552 (1966)
Milliken v. *Bradley,* 433 U.S. 267 (1977).
Natonabah v. *Board of Education of Gallup-McKinley County School District,* 355 F. Supp. 716 (1973)
Parents' Committee of Public School 19 v. *Community School Board, N.Y.* 524 F. 2d 1138 (1975)
Puitt v. *Commissioners,* 94 N. C. 519 (1886)
Reynolds v. *Board of Education of the City of Topeka,* 66 Kansas 672, 72 Pac. 274 (1903)
Riggsbee v. *Town of Durham,* 94 N.C. 800 (1886)
Rogers v. *Paul,* 382 U.S. 198 (1965)
Swann v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. (1971)
U.S. v. *Jefferson County Board of Education,* 372 F. 2d 877 (1966)
U.S. v. *Jefferson County Board of Education,* 380 F. 2d 385 (1967)